IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6176 OF 2005

1. Santosh Bhimrao Mandave
2. Ramchandra Shyamrao Mandave ...Applicants
Vs.
The State of Maharashtra ...Respondent

Shri A.P.Mundargi, Senior Advocate i/by Shri Indrajeet Joshi for the Applicants.
Shri K.V.Saste, A.P.P. for the Respondent.
Shri H.S.Venegaonkar for the Complainant.

CORAM : A. S. OKA, J.
DATE : OCTOBER 06, 2005.

P.C.:

1. Heard the learned Senior Counsel appearing for the Applicants, learned A.P.P. for the State and the Advocate appearing for the complainant. The offence is under section 302, 147, 148, 149 of Indian Penal Code. The learned Counsel for the Applicants submitted that the statements of eye-witnesses are recorded and no clear and specific role is ascribed to the Applicants. He submitted that the mother of the Applicants is seriously ill as she is suffering from cancer. He submitted that after investigation is completed, the Applicants are entitled to be enlarged on bail. The learned A.P.P. produced material collected during the investigation for my perusal. He submitted that both the eye-wintesses have named the Applicants and there is recovery at the instance of the Applicant No.1 of bloodstained clothes and blood

stained knife. The learned Advocate for the Complainant supported the learned A.P.P.

2. I have considered the submissions. It is true that the eye-witnesses have not stated that the Applicants were carrying any weapon. However, the eye-witnesses have stated that both the Applicants assaulted the deceased. The perusal of the Post Mortem Notes show that there are large number of injuries on the person of the deceased. There is recovery of blood stained knife and blood stained clothes at the instance of the Applicant No.1. Thus, so far as the Applicant No.1 is concerned, there appears to be a prima facie case. The injuries on the person of the deceased could have been caused by the weapon recovered at the instance of the Applicant No.1. So far as the Applicant No.2 is concerned, the witnesses have not stated that he was carrying any weapon. Moreover, there is no recovery made at the instance of the Applicant No.2. Hence, case is made out for enlarging the Applicant No.2 on bail. So far as the Applicant No.1 is concerned, no case is made out.

3. Hence, I pass the following order:

: O R D E R :

i) Application is rejected so far as the Applicant No.1 is concerned.

ii) The Applicant No.2 shall be enlarged on bail in connection with **C.R.No.19 of 2005 registered with Vaduj Police Station, District Satara,** subject to furnishing a personal bond of **Rs.15,000/-** with one or two local sureties in the like amount.

iii) The Bail is granted subject to condition that the Applicant No.2 will report to the concerned Police Station once in fortnight till the conclusion of the trial.

iv) The Bail is granted subject to condition that the Applicant No.2 shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The Applicant No.2 shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant No.2 to delay the

trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) The parties to act upon an authenticated copy of this order.

JUDGE